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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/895,893	06/29/2001	Michael Joseph Calderaro	AUS9-2001-0233-US1	7074
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IBM CORPORATION- AUSTIN (JVL) C/O VAN LEEUWEN & VAN LEEUWEN PO BOX 90609 AUSTIN, TX 78709-0609				
			EXAMINER LOFTIS, JOHNNA RONEE	
			ART UNIT 3623	PAPER NUMBER

DATE MAILED: 12/27/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/895,893

Applicant(s)

CALDERARO ET AL.

Examiner

Johnna R. Loftis

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 06 October 2005.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-20 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-20 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date <u>8/15/05, 10/17/05</u> . | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

1. The following is a first office action upon examination of application number. Claims are pending and have been examined on the merits discussed below.

Response to Arguments

2. Previous rejections under 35 USC 101 have been withdrawn.
3. Applicant's arguments with respect to claims 1-20 have been considered but are moot in view of the new ground(s) of rejection.

Claim Rejections - 35 USC § 103

4. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

5. Claims 1-20 are rejected under 35 U.S.C. 103(a) as being unpatentable over Paizis, US 6,338,042 in view of the article entitled, "Oracle Seizes the Future with Retention Training", hereinafter referred to as Oracle.

As per claim 1, Paizis teaches receiving planning factor data from a user, the planning factor data corresponding to one or more employees (column 4, lines 42-67 – competency and contribution data for employees is collected from employee evaluations); storing the planning factor data in employee profile data areas, wherein each employee profile data area corresponds to one of the employees (column 4, lines 10-25 – the performance evaluation data is ranked and

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comparisons are made between individuals, inherently this evaluation data is stored with a correlation to the specific employee); storing actual employment data for each of the employees in the employee profile data areas (column 9, lines 19-21 – the current status section shows stored information regarding each employee as well as current salaries); analyzing the planning factor data (column 5, lines 34-48 – the performance evaluation data is analyzed to determine a target pay level for the employee); and copying one or more planning factors from at least one of the employee profile data areas to the actual employment data corresponding to the employee profile data areas (figs 5A and 5B show pay and employee performance data stored in tables wherein the data correlates to each employee). Paizis however, does not explicitly teach the planning factors including risk-planning data. Paizis does teach the employee evaluations are used to make compensation determinations. The Oracle article teaches including a risk assessment with evaluation of employees that ultimately effects salary decisions. It would have been obvious to one of ordinary skill in the art at the time of the invention to include risk assessment with the employee evaluations of Paizis to make a more informed decision regarding salary and retention. If a highly valuable employee is at risk of leaving, one would want to offer a salary raise to try to keep that employee.

As per claim 2, Paizis teaches determining budget planning data for a group of employees (column 7, lines 35-40 – a budget is used in comparing target pay to determine pay allocation); storing the determined budget planning data (column 7, lines 35-40 – inherently the budget data is stored since it is compared to target pay information to determine pay allocation and/or increases); comparing the budget planning data with the planning factors corresponding to the group of employees (column 7, lines 35-40 – the pay data which is based on the evaluation data

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is compared against the budget); and revising the planning factors data corresponding to at least one employee selected from the group of the employees in response to the comparison (column 7, lines 41-55 – the pay targets are compared to the budget and a determination is made of whether the pay targets are acceptable or if they need to be modified).

As per claim 3, Paizis teaches selecting one of the employees (column 5, lines 34-67 – for each employee performance evaluation data is obtained); comparing actual data corresponding to the selected employee with actual employment data corresponding to one or more other employees (column 5, line 34 – column 6, line 34 – the performance data for each employee is obtained and ranked to determine appropriate pay); and revising the planning factors data corresponding to the selected employee in response to the comparison (column 6, lines 34-67 – a determination can be made that the rankings must be changed, once the rankings are determined, target pay for each individual is computer based on the rankings).

As per claim 4, Paizis teaches the actual data includes performance evaluation data (column 5, lines 49-59 – performance evaluations are used to evaluate target pay) and wherein the planning factors include compensation planning data (column 5, lines 49-59 – performance evaluations are used to evaluate target pay)

As per claim 5, Paizis teaches displaying a summary of actual employment data and planning factors data for a group of employees, wherein the group of employees corresponds to a manager on a display device (fig 5A – and column 9, lines 7-53 – a file is stored containing employee information including salary data and evaluation data, it is displayed on a spreadsheet as shown in fig 5A); displaying one or more first summary options corresponding to the displayed summary on the display device (fig 5A – all competency scores are displayed after

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performance evaluation takes place); receiving a summary option selection corresponding to one of the first summary options from the user (fig 5A – user has option to click on the RANK button to rank employees by combined score); summarizing the actual employment data and planning factors data for the group of employees in response to the received summary option creating a new summary (fig 5A – upon selecting the RANK button, a new summary is created with a ranked list of employees); determining one or more second summary options corresponding to the new summary (fig 5C – once employees are ranked, the user can choose to modify the target pay to fit within the designated budget by selecting the MODIFY button); displaying the new summary and the second summary options on the display device (fig 5C – with the ranked employees, a MODIFY button is available wherein uniform changes are made reducing all pay targets by the same percentage to meet budget); and receiving a second summary options corresponding to one of the second summary options from the user (fig 5C – the MODIFY button produces a new summary wherein all pay is modified to meet the budget).

As per claim 6, Paizis teaches the analysis is selected from the group consisting of risk assessment analysis, compensation analysis, and performance analysis (column 5, lines 49-59 – performance evaluations are used to evaluate target pay).

As per claim 7, Paizis teaches copying one or more compensation planning factors from at least one of the employee profile data areas to the actual employment data corresponding to the employee profile data; and clearing the copied compensation planning factors. (fig 5B – the compensation planning data is shown wherein the targets are set including target pay, current pay rank, user then proceeds to step 4; fig5C shows step 4 wherein the compensation planning factors are removed and final pay, etc., are shown and option to modify is displayed)

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Clearing the copied compensation planning factors.

Claims 8-13 are the information handling system to perform the method of claims 1-5 and 7. Since Paizis teaches a system used to manage employee evaluation and pay data, the same rejections as applied to claims 1-5 and 7 are also applied to claims 8-13.

Claims 14-20 are the computer program product for performing the method of claims 1-7. Since Paizis teaches computer software for managing employee evaluation and pay data, the same rejections as applied to claims 1-7 also apply to claims 14-20.

Conclusion

6. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

McNally, J. Stephen. "Retaining Valued Employees". Recommendations on how to successfully retain valued employees are presented.

7. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37

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CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.


8. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Johnna R. Loftis whose telephone number is 571-272-6736. The examiner can normally be reached on M-F 8am-4:30pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Tariq Hafiz can be reached on 571-272-6729. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

JL

12/22/2005


TARIQ R. HAFIZ
SUPERVISORY PATENT EXAMINER
TECHNOLOGY CENTER